

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DIEGO AGUILAR-VALDOVINOS,

Petitioner,

v.

ISRAEL JACQUEZ,

Respondent.

Case No.: 3:23-cv-01254-JE

ORDER

Adrienne Nelson, District Judge

United States Magistrate Judge John Jelderks issued a Findings and Recommendation in this case on January 1, 2024 recommending that petitioner's petition for writ of habeas corpus, ECF [1], be dismissed as moot and a judgment entered dismissing the case without prejudice. No party has filed objections. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

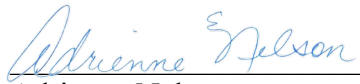
A district court judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If any party files objections to a magistrate judge's proposed findings and recommendations, "the court shall make a de novo determination of those portions of the report." *Id.* No standard of review is prescribed for the portions of the report for which no objections are filed, and no review is required in the absence of objections. *Thomas v. Arn*, 474 U.S. 140, 152-54 (1985). A district court judge is not, however, precluded from *sua sponte* review of other portions of the report, under a *de novo* standard or otherwise. *Id.* at 154. The Advisory Committee notes to Federal Rule of Civil Procedure 72(b) recommend that, when no objection is filed, the recommendations be reviewed for "clear error on the face of the record." Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment.

Because no party in this case has made objections, this Court reviews Judge Jelderks'

Findings and Recommendation for clear error on the face of the record. Finding no such error, the Court ADOPTS Judge Jelderks' Findings and Recommendation, ECF [9]. The Petition for Writ of Habeas Corpus, ECF [1], is DISMISSED as moot without prejudice to renew. Should plaintiff discover that the BOP has not modified his FSA earned time credits, he may reopen the action. Because plaintiff has failed to make a substantial showing of the denial of a constitutional right, the Court declines to issue a certificate of appealability. 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 12th day of March, 2024.


Adrienne Nelson
United States District Judge